

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BSG Resources (Guinea) Limited, BSG Resources (Guinea) Sàrl, and BSG Resources Limited,

Plaintiffs,

-against-

George Soros, Open Society Foundations, Open Society Institute, Foundation to Promote Open Society, Open Society Foundation, Inc., Alliance for Open Society International, Inc., Open Society Policy Center, and Open Society Fund,

Defendants.

No. 1:17-cv-02726 (JFK) (OTW)

DECLARATION OF MODY OUMAR BARRY

Mody Oumar Barry declares as follows pursuant to 28 U.S.C. § 1746:

1. I am managing partner at the BAO & Fils Law Firm in the Republic of Guinea. I am admitted to the bar in both Guinea and Montréal (Canada). I have a degree in private law from Gamal Abdel Naser University of Conakry and an MBA from the University of Conakry and the University of Quebec in Montreal. I have practiced law for over 25 years in Guinea. My practice and that of my firm includes both criminal and civil litigation as well as transactional work. Since 2008 myself and my firm were ranked in Band 1 in Guinea by Chambers as leading firm and leading individual. I was also recognized by the journals "Jeune Afrique" and "Jeune Afrique Business" as one of the top 50 business lawyers in Africa. I am fluent in both French and English.

2. I have been asked to review, analyze, and discuss a document titled “Jugement Correctionnel No. 046 du 30 Mars, 2020”, which is a judgment from the Court of First Instance of Kaloum (the “Court”). It lists the case number as Case RP No. 104/2013. A copy of that judgment, together with a certified translation into English, are attached hereto as Exhibit 1 (hereafter, the “Order”). After receiving the Order, I sent members of my firm to the Court and confirmed the Order with the Court.

3. The Order, rendered by the Court, exonerates Mamadie Touré, Ibrahima Sory Touré IST, Issiaga Bangoura, Mahmoud Thiam, Aboubacar Bah, and Ismaël Daou from charges that from 2006 to 2010 they yielded to “offers, promises, donations, gifts and other advantages, offered directly or indirectly, whether for themselves or for others, by abusing their actual or supposed influence with a view to obtaining from the President of the Republic, the Guinean Government and the Public Administration decisions that were favorable for obtaining the Simandou and Zogota mining concessions”.

4. The Order lists as the “Nature of the offense; Bribery, traffic of influence peddling and complicity”.

5. According to the Order, these charges against these six individuals had been “referred to the Court” in 2018. The Order explains that Mamadie Touré “was questioned as a witness” and was “herself indicted by the investigating judge”.

6. The Order further states that the Public Prosecutor dropped the charges against all of the defendants, and finds that “this withdrawal implies that, following the investigations into the case brought before the court, the Public Prosecutor has no evidence that could lead the court to convict the defendants”.

7. Finally, the Order finds that the defendants “are not guilty of the acts with which they have been charged and non-suits them in the proceedings on the grounds that their offense has not been established”.

8. Having reviewed the Order, and based on my knowledge of Guinean law, the Order provides the defendants with a complete exoneration of the charges brought against them before the Court in relation with the matters determined therein. Under Guinean law, the Order is a substantive determination on the merits that the defendants are not guilty of these charges. Thus, the Court found factually and legally that the alleged bribery and influence peddling did not occur. These defendants cannot be retried either criminally or civilly for these alleged offenses in Guinea.

9. In Guinea, the standard (or, as we call it, the intimate/inner conviction of a judge) by which charges such as this are judged is the same whether they are criminal or civil.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on October 23, 2020
Location: Montreal, Quebec

A handwritten signature in dark ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Mody Oumar Barry